

PAID

TOWN OF CARY
Planning Department

AUG 31 2017

Submit to the Planning Department, P.O. Box 8005, Cary, NC 27512

DEVELOPMENT SERVICES

For office use only:

Rezoning Case #

Payment Method: CASH ☐ CHECK ☒ CREDIT CARD ☐ Amount: \$1250- P&Z HTE# 18-175
#10148

APPLICATION FOR REZONING

Town of Cary

Associated Annexation Petition ☐ Yes ☒ No

AUG 31 2017

Traffic Impact Study

☐ Yes
☒ No

TAR Number:

N/A

Staff confirmation: Initials

Date

Development Services

This application is deemed sufficiently complete for purposes of submittal.

Planning Staff Signature

Dikra Gannon

Date

8/31/2017

Submittal deadlines incorporate sufficiency review of rezoning/land use plan amendment applications. Signature by Planning Staff is required prior to payment of fees and final acceptance of application.

STAFF USE ONLY: Circle applicable Parts: 1 2 3A B1 3B2 3B3 3B4 3C1 3C2 3C3 3C4 3D 3E1a 3E1b 3E2 3F

Fees will not be accepted until the application is deemed sufficiently complete and signed by Planning Staff.

REZONING FEE:

- ☐ \$1,400.00 – General rezoning, or initial zoning associated with owner-initiated annexation petition, 5 acres or greater
- ☐ \$300.00 – Initial zoning associated with citizen-initiated annexation petition, less than 5 acres
- ☐ \$1,900.00 – Conditional use rezoning (per change of zoning classification requested)
- ☐ \$2,500.00 – Mixed Use District Rezoning (New MXD, or major amendment to existing PDP)
- ☐ \$500.00 – Mixed Use District Rezoning (Minor amendment to existing PDP - typically less than 50% of floor area, number of units, etc.)
- ☐ \$2,500.00 – New application or major amendments to approved Major PDD
- ☒ \$1,250.00 – Minor PDD or Minor Amendment to Existing PDD

NOTE: An additional fee of \$150 will be charged for each additional public hearing or neighborhood meeting required due to changes in the request made during the rezoning process.

Project Name		Regency Park Tract 7 West
Name of PDD (if applicable)		Regency Park
Location	Address	12040 Regency Parkway
	General Location	Southside of US-1 between Regency Parkway and Angelica Circle
	Jurisdiction (check one)	<input checked="" type="checkbox"/> Cary Corporate Limits <input type="checkbox"/> Cary ETJ <input type="checkbox"/> Wake Co.* <input type="checkbox"/> Chatham Co.* * Submittal of an annexation petition is required if rezoning is requested

Part 1: Applicant Information

Applicant		Applicant's Contact	
Name	<u>U.S. REIF Regency I Cary North Carolina LLC</u>	Name	<u>Jason Barron</u>
Firm	<u></u>	Firm	<u>Morningstar Law Group</u>
Address	<u>Intercontinental R/E Corp</u>	Address	<u>421 Fayetteville St Ste 530</u>
City, State, Zip	<u>1270 Soldiers Field Rd Boston, MA 02135</u>	City, State, Zip	<u>Raleigh, NC 27601</u>
Phone (area code)	<u>(617) 782-2600</u>	Phone (area code)	<u>(919) 590-0371</u>
Email	<u></u>	Email	<u>jbarron@morningstarlawgroup.com</u>

Part 2: Parcel & Owner Information

Property Owner(s) <i>Provide property owner name and address as it appears in the Wake or Chatham County Tax Records,</i>	County Parcel Number(s) (10 digit)	Real Estate ID(s)	Deeded Acres ¹
US Reif Regency I Cary North Carolina Llc Intercontinental R/E Corp 1270 Soldiers Field Rd Boston MA 02135-1003	0752-70-6108	0355111	11.37
Total Acres	11.37		

¹ A property survey showing zoning district boundaries and acreages is required if multiple zoning districts are proposed or if the proposed rezoning applies to only a portion of a parcel.

Part 3A: Rezoning Request

Pre-Application Conference: ☐ Yes Date: _____ ☒ No

Existing Zoning	Base Zoning District(s)	PDDMajor (Regency Park)
	Zoning Overlay District(s) <i>Check any that apply</i>	<input type="checkbox"/> Mixed Use Overlay District (Name: _____) <input type="checkbox"/> Conservation Residential Overlay District <input type="checkbox"/> Airport Overlay District <input checked="" type="checkbox"/> Watershed Protection Overlay District <input type="checkbox"/> Jordan Lake <input type="checkbox"/> Jordan Lake Critical Area <input checked="" type="checkbox"/> Swift Creek <input type="checkbox"/> Historic Preservation Overlay District
	Zoning Conditions <i>(if any)</i>	Regency Park PDD
Proposed Zoning	Proposed Base Zoning District(s)	PDDMajor (Regency Park)
	Proposed Zoning Conditions	<input type="checkbox"/> No zoning conditions are proposed <input checked="" type="checkbox"/> Zoning conditions are proposed and included in attached affidavit
	Proposed Changes to Overlay Districts	NONE
	Summary of Proposed Development or Purpose of Request	To allow for the construction of additional parking to accommodate industry demands for Class A office development. Buffer modifications are proposed to allow for such additional parking to be constructed.

Part 3B: Applicant's Rezoning Justification Statement(s)

Rezoning Justification Statement #1 *Required for all rezoning requests*

Describe how the proposed rezoning meets the criteria listed below.

Section 3.4.1(E) of the Land Development Ordinance states that Council should consider the following criteria when reviewing all proposed rezonings:

- (1) The proposed rezoning corrects an error or meets the challenge of some changing condition, trend, or fact;

Applicant's Comments: The proposed rezoning seeks to meet a current market trend of Class A office tenants. Employers are redesigning traditional office layouts to provide for more open and collaborative workspaces. Ultimately, this allows more employees to convene in the same office space because there are fewer walls and a much more open floor plan. By allowing the increase in parking ratio and decrease in thoroughfare buffer, the existing Class A office space at this location can continue to respond to the current demand in the Class A Office market.

- (2) The proposed rezoning is consistent with the Comprehensive Plan and the purposes set forth in Section 1.3 of this Ordinance;

Applicant's Comments: The proposed rezoning is requesting to amend an existing PDD to allow for the reduction of a thoroughfare buffer and additional parking. The Growth Framework Map designates the subject property as Traditional Neighborhood. The Cary Community Plan suggests that PDD would be an appropriate zoning district for this category for typical, incidental, and other use types. Thus, the requested zoning is consistent with the Cary Community Plan.

- (3) The Town and other service providers will be able to provide sufficient public safety, educational, recreational, transportation, and utility facilities and services to the subject property, while maintaining sufficient levels of service to existing development;

Applicant's Comments: Nothing about the proposed rezoning will materially change the public services that will be needed at the site. Additionally, the Town and other service providers will be able to maintain sufficient levels of service to areas within the immediate vicinity of the subject property.

- (4) The proposed rezoning is unlikely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation;

Applicant's Comments: The proposed rezoning is unlikely to have significant adverse impacts on the natural environment including air, water, noise, stormwater management, wildlife, and vegetation. While the thoroughfare buffer is being reduced, it is important to note that the office square footage remains a significant distance from the US-1 corridor. The reduction in thoroughfare buffer will enable additional parking to be installed.

- (5) The proposed rezoning will not have significant adverse impacts on other property in the vicinity of the subject tract; and

Applicant's Comments: The proposed rezoning is primarily to allow for additional parking for an existing use. The use has existing harmoniously with the adjacent properties since the area was built out. The increase in parking and reduction in thoroughfare buffer are not anticipated to have any significant adverse impacts on property in the vicinity of the site.

- (6) The proposed zoning classification is suitable for the subject property.

Applicant's Comments: The project site is of sufficient size and shape for the proposed development.

Rezoning Justification Statement #2 *Required for all rezoning requests*

Describe how the proposed rezoning is consistent with or supported by the visions and policies of the [Cary Community Plan](#). *Attach additional sheet if necessary.*

Growth Framework Map

The Growth Framework Map designation for the subject property is Traditional Neighborhood. Given that the Growth Framework Map was adopted after the existing office use had been established on the subject property, the designation seems at odds with the current built environment. Nevertheless, the requested rezoning is consistent with guidance found elsewhere in the Cary Community Plan which suggests that a PDD is an appropriate zoning category for an area designated for Traditional Neighborhood. Moreover, it is important to note that much of this area, especially those parcels that front onto US-1 like the subject property, is designated as Business/Industrial Park on the Growth Framework Map. This suggests that non-residential uses might be more appropriate on those parcels that front onto US-1 despite having a Traditional Neighborhood designation.

Work Chapter, Policy 3

This policy is aimed at proactively addressing the changing nature of the types of workplace environments that are being sought by the workforce of tomorrow. The proposed rezoning will facilitate addressing the recent trend of Class A office tenants of providing more open work environments with fewer walls, offices, and partitions. These open environments allow employees to more easily collaborate and organize with more of their co-workers.

Work Chapter, Policy 4

Consistent with this policy, the proposed rezoning will allow an existing office building to be more efficiently utilized which will encourage the local growth of the existing business.

Work Chapter, Policy 11

This policy recognizes the limited supply of land available for Class A and B Office Space in the Town. By preserving existing office park locations instead of converting them to other uses, the Town can ensure that businesses which require such locations will still consider Cary a viable option.

Shape Chapter, Policy 4

This policy recognizes that achieving the vision set forth in the Cary Community Plan will require redevelopment of existing sites. The proposed rezoning is consistent with this policy in that it is requested to facilitate the redevelopment of an existing site.

Rezoning Justification Statement #3 *Required only when rezoning to a Planned Development District or amending an existing Planned Development District*
Describe how the proposed rezoning meets the criteria listed below.

Section 3.4.3(E) of the Land Development Ordinance states that Council should consider the following criteria when reviewing proposed rezonings to a Planned Development District. *These criteria are in addition to those stated in Section 3.4.1(E),*

- (1) The PDD designation is necessary to address a unique situation or represents a substantial benefit to the Town, compared to what could have been accomplished through strict application of otherwise applicable zoning district standards; and

Applicant's Comments: The PDD amendment permits the site to respond to changing habits of major employers, especially major technology companies. By permitting more parking, more employees can be accommodated in the same amount of office space. This will enable the Town to attract major employers to the site.

- (2) The request complies with the PDD standards of Section 4.2.3.

Applicant's Comments: The PDD complies with the standards contained in Section 4.2.3 of the LDO. The overall design of Regency Park is innovative in the manner in which uses have been combined throughout the PDD. Moreover, Regency Park is one of the two major office destinations in the Town. The proposed rezoning will continue to bolster Regency Park's reputation with major employers looking to relocate or expand in the Triangle area. With nearby residential, recreation, retail, greenway, and the natural beauty of Symphony Lake, ensuring the strength of the office uses within Regency Park should be a high priority for the Town.

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Part 3C : Owner's Signature(s) *Completion of the applicable sub-section(s) is required for all rezoning requests except requests to rezone to a General Use District*

Check applicable sub-section(s)

- ☐ 3C(1) – Required where property owner is an Individual
- ☒ 3C(2) – Required where property owner is a Limited Liability Company (LLC)
- ☐ 3C(3) – Required where property owner is General Partnership (GP),
Limited Partnership (LP) or Limited Liability Partnership (LLP)
- ☐ 3C(4) – Required where property owner is a Corporation

(Attach additional sheets if necessary)

Part 3C(1): Individual All owners must sign, including husband & wife, and all joint tenants.
(Notary not required)

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

Property Owner Printed Name _____

Property Owner Signature _____ Date _____

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Part 3C(2): LIMITED LIABILITY COMPANY - The area to be rezoned is owned by a limited liability company properly registered with the State of North Carolina. If 'member managed' all members must sign. If 'manager managed', all managers must sign. **(Must be notarized).**

☐ **Manager-Managed**

Manager(s) is/are:

Printed Name _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

☒ **Member-Managed**

Member(s) is/are: U.S. Real Estate Investment Fund REIT, Inc.

Printed Name Peter Palandjian, as President and Treasurer

Signature P N Date 8/28/17

Printed Name _____

Signature _____ Date _____

Printed Name _____

Signature _____ Date _____

If member/manager is an individual:

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, certify that _____
(Name of Notary)

personally came before me this day and acknowledged that he/she is Member / Manager (Circle One) of

_____, LLC and that he/she, as Member / Manager (Circle One)
(Name)

_____, LLC and that he/she, as Member / Manager, being authorized voluntarily executed the
(Name of LLC) (Circle One)

foregoing on behalf of said limited liability company for the purposes stated therein.

Witness my hand and official seal, this the _____ day of _____, 20_____.

[OFFICIAL SEAL]

Notary Public

Printed Name of Notary Public

My Commission expires: _____

If member/manager is a corporation:

STATE OF Massachusetts

COUNTY OF Suffolk

I, Richard M. Clark, Jr., a Notary Public, certify that Peter Palandjian
(Name of Notary) (Name)

personally came before me this day and acknowledged that he/she is President and Treasurer
(Title of Corporate Officer)

of U.S. Real Estate Investment Fund REIT Inc., which is a, (Member / Manager) of U.S. REIF Regency I Cary North
(Name of Corporation) (Circle One) (Name of LLC) Caroline, LLC

_____, of _____, (Member / Manager) of
(Title of Corporate Officer) (Name of Corporation) (Circle One)

_____, being authorized to do so, voluntarily executed the foregoing on
(Name of LLC)

behalf of said limited liability company for the purposes stated therein.

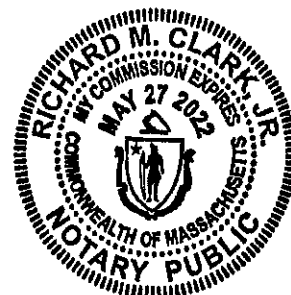
Witness my hand and official seal, this the 28th day of August, 2017.

[OFFICIAL SEAL]

Notary Public

Printed Name of Notary Public

My Commission expires: May 27, 2022



Part 3E: Affidavit Signed by Property Owner or Authorized Agent

Completion of the applicable sub-section(s) is required for all rezoning requests except requests to rezone to a General Use District. Must be notarized

Check applicable sub-section(s)

- ☐ **3E(1a)** – Required where the property owner maintains sole authority to make binding statements and commitments regarding the request, and the property owner is one or more individuals.

and/or

- ☒ **3E(1b)** – Required where the property owner maintains sole authority to make binding statements and commitments regarding the request, and the property owner is a corporate or similar entity.

OR

- ☐ **3E(2)** – Required where the property owner has authorized another individual or entity to represent him/her through the public hearing process and make binding statements and commitments regarding the request. *(Selection of this option requires submittal of Power of Attorney or redacted sales contract per Part 3D above)*

NOTE:

Each time proposed zoning conditions are revised after the initial submittal, a new affidavit must be provided to the case planner.